# Retro Advisory Committee

Meeting Minutes
taken July 12, 2005, at 1:00 p.m.
at L&I Headquarters in Tumwater

The meeting was called to order at 1:00 p.m. by Frank Romero.

## Introductions

The Retro Advisory Committee members present were: Frank Romero (chair), Debbie Sullivan, Tammie Hetrick, James Bobst, Mark Shaffer, Jim Gurnea, and Ann Jarvis.

Introductions were then made around the room, beginning with the committee, then followed by audience members/attendees.

## Review of Agenda

Mr. Romero went over the agenda and explained the few changes that would occur in the agenda.

## Approval of Minutes

The minutes were gotten out within a couple of weeks after the last meeting, plenty of time for everyone to review and digest them. A motion was made and seconded for the approval/adoption of the minutes of the April 12, 2005, meeting as submitted. The motion passed (was carried), and the minutes were approved as submitted/published.

## ORCA Early Adopters Update

Teresa Sheldon from the BIAW reported that so far it was going great, and that they had received only very few complaints and just a couple of pitfalls. But for the most part it's really been wonderful having access to images. This pilot program has been going since May 23rd and has progressively gotten better, more reliable; although initially there was quite a bit of down time.

With this system if an employer calls wanting to see a specific document, you can: e-mail it to them, print it, fax it. You're able to copy/paste a portion and place into a Word document and the copies are extremely clear. The system is very easy to navigate through.

There are a lot of employers using the Claimant Account Center. They appear to really like the fact that they can go in on their own claim(s), look at things, see what is and isn't going on.

The spokesperson/representative from TOC echoed the same thing, stating that it truly has been a great experience, other than the technical difficulties of when it is not running. She stated that the claims managers internally are having the same frustrations. But when the system's up and running, it's great. Imaging is really good. Printing and copying is great. A great resource. Contact with the Department has been limited because of ability to access information. Phone calls to doctors are reduced because the reports are there and can be seen.

There have been a few things here and there, however, that have been noticed like going back into the regular system is a long process. One of the problems/drawbacks of this system is that once you're in and imaging documents you have to go back and are forced to go to a new document. It would be nice if you could just continue on through the imaging and just have the documents flow one after another without having to go back and download.

On the plus side, this system allows for a good partnership with the claims manager(s) at L & I because all have the same information, all are looking at the same thing, and everyone is working together to solve whatever's going on.

Committee Member Sullivan asked when the launch date to everyone else would be. The response was possibly October or November. Frank Romero stated that he would inquire of Katherine McDonald, the project manager, to find out where they are and obtain a date, then he would notify everyone.

Committee Member Shaffer asked if this was going to be available to only retro groups or to any interested employer who's wanting to track their own claim and could they have access to it. Frank Romero responded/thought that ultimately yes, an employer would be able to log into that claimant account center and review any claims that are affecting their account.

## Claims Update

Mary Shatto reported that it was found out that outbound faxes from the imaging system weren't working and couldn't directly fax out, but would be fixed in a few days. They have a backlog of several days that were stuck in the queue. They're still processing the incoming fax requests, but have to print them from imaging and manually do it. She asked for patience from everyone, and that if everyone could hold off on re-requesting any faxes because it would just really slow down the process getting second requests for the same faxes. The IT guys are working on the problem(s).

Another update was shared concerning the small business round table held recently. There was a lot of positive feedback and suggestions received on what to do better. One of the suggestions was to have liaisons again like in the past. Ms. Shatto stated, "What we're looking at implementing is we're going to hire 12 level 4 claims managers on the floor. And they will work with the units and do quality assurance, helping them with timeliness, costs. And we're going to train them on retro, and we'd like them to be a liaison for you." Ms. Shatto asked for suggestions as to what kind of information these claims managers/liaisons could be trained on, and what kinds of things were the liaisons in the past routinely used for in retro. She also stated that ideally you should always try the claim manager first and work with them first. The workers' comp adjudicator force should not be your sole point of contact. If the claim managers are not acting on it, then the workers' comp adjudicator force is there to help out and give advice on how to manage the claim better.

One thing that has come up concerning employer-based units that are attached to accounts now, there has been some feedback that because some of them have really large accounts, when the cutoff comes, they're kind of getting overwhelmed with requests to look at that claim. They might have 20 or 30 claims. And it's kind of throwing off their whole schedule. They're hoping that they could be contacted more on an individual claims-management basis, staying in touch with them and maybe working out a schedule of how best to handle it when it's your cutoff, and what's the best way to work with that and getting all the information that one might need. Dialogue is encouraged.

Another thing that's being looked at is that while the workers' comp adjudicator force will be trained and it'll be their expertise, it might also be a good idea to train the staff, the claims managers, on retro -- just some generic training. This was a suggestion that came up at the small business round table. Mary Shatto asked for some help, some tips on what kind of information would be important for a claims manager to understand and how best to work with a retro group.

Not every retro group works the same way, so try not to specialize it too much for one group if it doesn't apply across the board.

Merri Feet with Washington Trucking asked if the Level 4 claims managers were going to be assigned to different retros or different units. Mary Shatto responded that they're going to hire 12 at first, probably in September, and they'll be shared by two units. So each unit will have one-half of a person helping them. By January it is hoped to hire another 12. So every single unit will have their own technical expert in the unit. And they won't be assigned to any particular account, but a lot of them will be working with the EBT units and the EBT CM's. So they probably will become more familiar with claims as they work individually with people, and they'll probably start to understand the industry and what the needs are a bit better. When asked whether these 12 people were going to be hired from within because they're level 4's, Ms. Shatto stated that they're hoping to be able to attract some level 4's from other programs, but also hopefully promoting from within as well. They're trying to make it more attractive to stay because there is a drastic turnover in claims.

### Performance Measures

Frank Romero had sent out a request in writing asking for some ideas on what's important to you in retro or how is it performing. So many good ideas were received that it's going to be hard trying to figure out how to use them all.

A lot of ideas/recommendations were received dealing with the enrollment issue. What was found is that what most people want is when coverage periods start (January 1, April 1, July 1, October 1), for new members coming in, they want access to the claimant information immediately. It was noted that for July this was attempted, trying to get the members access to the claimant information quicker, but because of the weekend and the July 4th holiday, claim information couldn't be accessed until July 5th. All in all, however, that is still a lot quicker than what's been done in the past.

Some of the other things suggested were just in the way of how business is done. Frank Romero stated that perhaps by the next meeting he'd try to summarize the input received and respond how it would be dealt with.

Another part of the enrollment process that's really important is who's out. That information really needs to get out to people as quickly as possible. Mr. Romero stated that that's the next priority is who didn't get to be in the group because they owed money, or because there was a classification issue going on.

Another suggestion that was shared was that it's being asked to remove accounts. Mr. Romero agreed that while that is important, it's less critical. Timing-wise, if things get done before the first quarter's over, that's okay because you know they're out, and their account's not going to impact you. They're already enrolled in another group.

And yet another suggestion shared was that when the adjustment is done and there's a protest to some of the claims, those things should be resolved as quickly as possible.

Mr. Romero stated that he would get back to the group in a few weeks, meet with everyone later and try to figure out what everyone wants, what the turn-around should be. He'd also put these ideas/suggestions out there on the web site and/or maybe set up a meeting with the claims folks of the different retro associations and the third-party administrators and talk about the things that are important and agree on some dates as to how quickly things should be processed. It's important that everyone works together to establish what everyone's expectations are and try to meet those to the extent possible.

### Classification Services

Ron Moore stated that assignments are received from all over, including the legislature. Through a random quality assurance process, effort is made to ensure that certain risk class assignments are correct. Information is then gathered from that to decide whether training or perhaps changes in risk class language need to be done. Information is also gathered from field audit, associations, and other members of the Department.

Under the category of "Retail," they're looking at the possibility of making door to door sales a basic class instead of a standard exception. You would no longer have to assign two classes when people deliver their product. In the past, when product was delivered and left with the person it was demonstrated for, it was considered inventory. If it was taken back it was considered a demonstrator. It ended up being two different classifications for people doing the same type of work. So something is being done to remedy this.

Under the category of "Government," consideration is being given to add another class for government. Currently there are two classes, either clerical or an outside person doing manual labor. There's no middle-of-the-road class. Consideration is being given to add this third class.

Under the category of "Professional," community action councils are being looked at to reduce the number of risk classes they have. Need to make it easier to administer. Would like to follow the state government model and have only three classifications: one for manual, one for clerical, and one for outside people.

Under "Metal Goods," this one has about a hundred subcodes, making it difficult to administer. And some descriptions for businesses are in two to three different risk classifications. Effort is being made to compare, contrast and possibly combine those that can be combined and try to put in a single class those that need to be put in a single class. Need to make this industry a little simpler to administer.

Also under "Metal Goods," the gauge is being looked at. A lot of classes say greater than or less than 9 gauge. Is this a valid standard to use to better differentiate? It has been found that some businesses do both. A class has already been created that was effective July 1st for machine shops that use computers and numeric control processes. What's been found is that a lot of businesses/machine shops are scattered throughout the 100 subclassifications. The effort(s) here is to try to move all those into one.

Under "Construction," this is a complex classification with about forty-some different classes. Frank Romero was instrumental in creating a construction manual several years ago for residential construction. And in it was everything you'd want to know about residential construction including risk classes, pictures, rules, how to classify, etc.

Last year Senate Bill 3188 required general contractors to check their subcontractors to see if they're in good standing. It was Classification Services' role here to create a way to identify subcontractors who were required to register but didn't have employees. The RCW's gave the ability to close out accounts after four quarters with no payroll, which was in conflict with Senate Bill 3188. So a subcode was added to some of the construction classes so that Classification Services would know not to close those accounts out so that when general contractors go in to check their subs they have a way of knowing whether they're in good standing or not.

Furthermore, the request has been made to add even more construction classes to the mix this year. And that should happen with the next rule filing.

Debris hauling by contractor is also being looked at. Right now if a contractor hauls away their construction debris, it goes in one of several risk classifications, depending on what the general contractor's doing, etc. After sufficient research has been completed to determine whether there are, in fact, a vast majority of contractors who haul away their own construction debris, determination will be made as to whether another class will be added. Current survey results are not proving that that is the way most debris is hauled away.

Senate Bill 6014 asked for contractors to volunteer for disaster relief, and as part of that, not to charge them for any injuries that may occur while that is going on. A rule filing will be made to create a class that won't charge them experience for that or some mechanism for not allowing that.

Under "Farming/Agriculture," there is an issue with brush pickers right now. There's a special note in this classification that says that a farm labor contractor can use this classification when doing this type of work. This is confusing because in another part of the rules it says that farm labor contractors have to have the classification of a crop that they're dealing with. So there's an issue between what's farming and what's agriculture. So this needs to be cleaned up.

Berry farmers are also being looked at to see if they can have a manual classification with some of the work they do.

And mechanical and hand harvesting classification is being combined with shell fish because most mechanical harvesting is subject to the Jones Act. So that's an outdated reference.

Bob Malooly had a vision. When he went to B.C. he found that they have a publication called "Risk Watch." So that was looked at, and he gave some directives that we needed to do something similar to that to let the industry know some of the issues involved and how assistance can be given. So our first edition is called "Rates Watch." This publication was put together by a bunch of different people. What the intent is is to put this publication out periodically to select targeted industries that have either had significant increases in rates or other factors.

To quote from our first publication, it says that you may not be able to do anything about the overall rates, but you can do something about yours. And truly that's the bottom line.

A clarifying question was asked by Art Dalessandro in regards to the metal trades industry because apparently there's still a lot of turmoil, a lot of confusion as to who can report under that risk classification and can hours be split because most machine shops have CNC and other machine shop operations.

Mr. Moore responded stating, "What will be initially required is that it be primarily -- and 'primarily' means it's a CNC shop. And then after that, if you have other risk classifications -- of course, they're all basic classifications. So the rule on splitting them doesn't apply because you can -- as long as you keep track of hours -- unless it's written in in one of the rules that you can't. So I guess the answer is yes, it can be split, but the first part of it is do you qualify for a CNC class."

Mr. Moore also stated that what they are finding in regards to the second phase of the metal goods is that not only in machine shops but in some of the other manufacturing areas there's a lot of CNC. Some more cleanup of that particular class may be required to make sure that it's adequate for what it's intended.

Again, this is a large and complex classification. It needs to be broken down into smaller pieces to try to manage it better.

When asked by Committee Member Shaffer whether generally speaking the Department was trying to shrink the number of classifications overall, Mr. Moore replied that that wasn't the objective; however, that's just his personal goal.

Mr. Shaffer also had a question/concern regarding the aircraft/metal goods category, and specifically the wording about "Remove the references to making an aircraft operable." Mr. Shaffer wanted this explained a little bit further. Mr. Moore clarified that in that particular class there was a sentence that said that this class is for the repair parts that make the aircraft operable.

Mr. Shaffer requested further explanation/clarification in regards to debris hauling. Mr. Moore stated that while there may be some contractors that only do picking up debris hauling and that's all they do, what he's really finding is that most contractors just haul their own debris, and that having a contractor who only hauls debris is not a common occurrence and is extremely limited.

Mr. Shaffer disagreed and suggested/stated to Mr. Moore, "From my observation anyway from residential stuff it seems as though I would suggest that there is kind of an industry of those people doing those kinds of things. And the reality is it puts them in kind of an awkward spot of 'Where do I report my time if I want to?'" He stated that there needs to be a way found to help people comply when they want to comply. If the opportunity was given to comply, that would be a big thing. Noncompliance is a big deal, especially when confusion exists for smaller outfits who just choose to opt out. Opportunity needs to be given for these people to opt in.

A question came from an audience member regarding Senate Bill 3188 and specifically in regards to generals assuring that subcontractors are in good standing. What does "good standing" mean? Mr. Moore elected to defer this matter to Carl Hammersburg who could better answer this during his presentation.

### Fraud Update

Carl Hammersburg began his presentation by stating that there were two bills that were passed this last legislative session: House Bill 3188 and Senate Bill 6428.

House Bill 3188, while that one was a big one that made a bunch of changes, Senate Bill 6428 was very specific and dealt with just the health care provider issue and really much more around quality of care and the endangering of patients and the ability in some situations to immediately suspend a provider's eligibility to provide services to injured workers instead of having that occur after an appeal is resolved.

3188 touched on a number of different issues. One piece of it was amending what had been in place for quite some time which is laws regarding successorship. What was really being looked at were the "bad actors" out there where they're successors to themselves and they're running this as one corporation, and then this LLC, and then another corporation and saying, "Gosh, we don't want to have to begin from ground zero every single time." What was being looked at were situations where someone owed premiums for industrial insurance and they've closed up that business as well as the assets, or the work of that business was carried over to a new entity.

The law that had been in place for a long time was back when businesses had fixed assets, i.e., trucks, equipment, et cetera. However, the world has moved on and most of that equipment is leased or there are other situations going on. And so the acknowledgment was that the assets of a business are intangible. It's that name and the phone number and the customer list and the lease on the location. That may be all that a business really entails, but that's where the revenue stream now comes from.

Mr. Hammersburg indicated that they were getting to the point of losing cases, or not even bringing them at all, because they couldn't substantiate the cases on real fixed assets, so they went to the legislature and asked for help so they could keep chasing those particular folks down.

The second bill also related to the same type of situation. This dealt with corporate or company officers who perhaps withheld money from paychecks, didn't pay the premiums, and instead took

the money themselves and walked away. The ability was needed to go after those corporate officers. And something was needed as an incentive to pay those taxes instead of just trying to walk away from it.

Another piece had to do with changes to the prime contractor liability law. In many industries the rule is that if you're contracting with people below you to do work, and those premiums don't get paid, you can be held liable. There is a specific exemption in place around construction that was put in some time ago. One element stated that you wouldn't be liable if you met certain criteria. And one additional criteria was added saying that you needed to have an industrial insurance account in good standing.

Mr. Hammersburg next addressed what's in good standing. You have to ask: Do they have an account? If they don't flat out, they're not in good standing if it looked like they had any employment whatsoever. The key around when someone would fall out of good standing is: 1) they didn't submit their report, 2) they didn't submit their payment, or 3) they ended up going through an audit and found out they weren't legitimately paying what they owed.

One key point to understand is that once they were checked up on and this process is gone through and this certification is received that they were in good standing when they were working for you, even if the Department found out later that they really were a problem right when they were working for you, you would still be clear on that. It would be from that point forward that they would become an issue and would no longer be in good standing.

A key piece that was put in place on the web site as far as the ability to check is the ability to put in your information and say, "I want to know if and when this person falls out of good standing." The Department would actually notify you at that point in time.

Another piece was also put into place whereby if you had the latest information and were up-to-date, notification would be given that "This person has a problem now." Communication really is the key. This issue/problem is so much bigger than 50 auditors/investigators can deal with. Mr. Hammersburg said, "If we don't or can't communicate with you and have you as a feedback mechanism and a source for referrals when we're having issues or people are having problems, we're not going to be able to beat the problem."

3188 also gave new authority around providers and the ability to do collection activities, including filing liens doing levies.

Mr. Hammersburg now turned his comments to the worker claimant side of the equation, stating that there are some really egregious cases out there, people who are really committing fraud. Fraud's a great word, and people usually understand what that word means. There is actually now a definition in place of what that means. Unfortunately it's called "willful misrepresentation." However because "willful misrepresentation" doesn't mean a lot to people, "fraud" is still used," and everyone knows what that term means.

3188 also had some elements in it in terms of making a case and providing new opportunities. In the past cases were lost because a person was running their own business and at the same time be on time loss. They weren't making any money from their business, weren't making any other income. This change allows the Department to say, "But the point is that person is capable of holding a job. They are trying to run a business. The fact that they're not very good at it is not really the issue at hand."

Mr. Hammersburg also shared with the group that they were given 10 additional FTE's from the legislature that were put into the audit and investigations programs. And the Department has matched those.

The entire structure before was different. Everything was treated separately. An audit was over here, investigations working on claimant and provider stuff was over there, and collections was yet in another spot. Everyone was in a different chain of command, different structure, and there were just pieces missing. Mr. Hammersburg said that "We've got to get this in one place so that if you come talk to us, there's one person to talk to and you know who you need to talk to and who's responsible for it, and when that individual's screwing up you can go yell at him and he can't say that it was someone else's problem; it's his problem." Activities needed to really be better coordinated. Furthermore, it was stated that oftentimes when sending people out on cases, they'd get sent to the wrong place because of poor sources. Mr. Hammersburg stated that "We really need to be proactive and make sure that people are spending their time in the right places. We took a select group of folks that cut across all these different areas: audit, investigations, workers' comp, etc., and we said we need to set up a small unit that's just working on finding the problems so that we're sending people out to the right place(s) and working the right case(s). So we're not just asking for more resources; we're working better with the ones that we have." And when a "tough case" is found, a single manager has been put in place and is in charge of pulling the rest together around those cases to make sure that what needs to be done is done. So better coordination. And that's really significant.

Mr. Hammersburg shared that they've been working closely and sharing information with DOR, Employment Security and the IRS. "We want to make sure everyone else knows what's going on, that they know what we know, and that we're trying to coordinate our activities as best as possible." That work and those efforts have turned into some accomplishments. And in terms of results for the first nine months of the year, 13 cases have been turned over to prosecutors, 9 of which have been charged and 2 convicted. Collections have brought in over $78 million, and are on track to top $100 million. There has been over $3.5 million in future cost avoidance off of claims. Total investigations being done are up by more than 15 percent. Total audits completed are up by more than 30 percent. These numbers can be attributed to perhaps a combination of increased staffing as well as working more efficiently.

Mr. Hammersburg further stated that it's not all just getting out there on the cases. There has to be communication. And so outreach and education is a big thing, and this hasn't really been done in the past.

Also being done are contractor training days. They occur around the state and are mainly held by Specialty Compliance Services. Those classes have been well attended and well received.

News from the collections area: It has been found that a lot of people pay fairly quickly if they just get some contact from the Department, i.e., phone calls, letters. So a unit has been established that's actually working with a phone system that does automated dialing out and then connects people on-line when they actually pick up and leaves messages when they don't. There's a lot more contact early on in a nonlegal manner. Striving to be more proactive.

As far as upcoming changes, from the detection end, a number of new cross-checks are being done/implemented. Other folks in the agency have been asked what are some of the red flags to look for in a claim or a pension, what are some of the things that don't necessarily say there's definitely a problem but may need to be looked at a bit more.

Mr. Hammersburg shared with the group that they're working with a company called Fair Isaac. This is kind of like your credit score, but is actually your FICO score. And FICO stands for Fair Isaac Corporation. Fair Isaac does/deals with huge levels of data analysis, trying to figure out whether you're a risk or not. Not only do they do that for credit, but they also do that in the workers' comp area for claims as well. And so they have a range of experience working in other states and with other private and public entities, and they've developed some modeling on their own. What we're doing right now to taking their existing model and working with our own history and developing a model that works for us that starts to feed out when is there an issue on a claim, when might we want to take a better look at it. With this data and information, accounts could be looked at and when the FICO score changes or is off the charts, the account would get kicked over to the fraud department for their review/analysis.

Also, what is being looked at is whether Dunn and Bradstreet can help do some of the same thing on the employer side. It's still very early in the process, and it may or may not work.

As far as legislation, what got passed is three more electrical inspectors and three construction compliance inspectors were added in the field to work specifically around compliance issues. And also added were a few staff here, mostly in central office; a couple more revenue officers to deal with a very high volume of claims and issues as well as a fraud adjudicator and a couple of investigators.

The legislative piece that didn't make it was the technology package. In regards to the field audit system, there's a lot of manual processes in it currently. It would be ideal to rework the process to save time, pull in data from other sources so people aren't manually doing that and spending three to four hours every single time they have an audit at the beginning and end getting information from other places. It would be better to have all that load up automatically so that people can spend their time on actually doing the work instead of the manual pieces.

And in regards to working with the data warehouse to really build it out to make it better able to correlate information with other agencies and/or pull in information from Employment Security or Department of Revenue, etc. If this repository of information can just be built, it'll make it so

much better as far as detection and finding out where there are issues. And while this didn't pass the legislature this time around, it will be coming back. Some big opportunities are being missed here. And while there's some up-front costs, the idea here is that it's actually the opposite of trying to add staff.

There will be a legislative request coming about this next year having to do with collections authority around crime victim status. Currently there is some authority to go after people that already had restitution ordered but there's times where that wasn't the right amount, so there's a debt due and owing. Currently, the way the system is, they actually have to be sued in court. Ideally it would be nice to have the same kind of collections authority in these types of situations that are enjoyed elsewhere.

Mr. Hammersburg stated that they're trying to get their hands around "Outreach," and that they're trying to find a way to get the message out to everyone on what's being done, how well did it work, what can be done to help, what's coming up, and what are the changes, etc. A team is being formed right now to specifically work on all the various pieces of an outreach plan.

In regards to e-learning opportunities, are there some things that can be put on the web site that would help people so that they're not confused or that will limit the amount of interaction with the Department?

The fraud web site is good, and the forms have been completely changed for reporting fraud. It's been simplified a lot, removing fields that were not needed. It's been made as easy as possible for people to report things. The last thing needed is a barrier when someone wants to report a problem. If people are made to jump through too many hopes, people give up, and we can't afford that.

Art Dalessandro volunteered to be the first one to be on the task force, if one was being put together, and then offered this: "I really think that you're not utilizing the associations, the trade groups that are out here getting the word out. We have a vested interest in all types of fraud, whether it's employer fraud, employee fraud, provider fraud. We have a vested interested that doesn't happen. So we want to be partners in order to get the information to you. And so often it does fall on deaf ears or it feels as thought we have to go through too many administrative hoops."

Mr. Hammersburg agreed, and then added: "The rest of it is also that piece about getting the word out. I realize that the associations are ready and willing to help carry this message. So I just have to figure out what exactly you want and how do we get it to you and when and where."

It was brought up by Committee Member Shaffer that he's glad Mr. Hammersburg is tackling the fraud issue and that steps are being taken to deal with it. Five years ago the Department didn't recognize, at least publicly, that they had a fraud issue.

One analogy given was: Think of the policeman up the street with a radar gun. If you're driving on the freeway and you're running late, what keeps you from doing 90 mph? Is it that thought that perhaps there's a guy on an off-ramp with a radar gun pointed at you? It's a great deterrent just thinking there MAY be radar up ahead.

So it's great news that the Department has decided to put some resources into this area and "put the guy on the off-ramp." Because up to this point there hasn't been anybody there. And the people that have been there have been there so rarely that it's just not funny. This will benefit everybody: employers, employees, everybody that plays as part of the L&I team. It really is great to see the Department put some resources into this, and actually start to develop a reputation of enforcing the law. Mr. Hammersburg freely acknowledged that you can't hit all the off-ramps, but agreed that if people know that there might just be someone "on that off-ramp" that might be enough to get people to comply voluntarily. In the end, that's really what is desired and hoped for. It's not to go out and get or "bust" people; it's to have them do the right thing in the first place.

Committee Member Hetrick requested a little bit more of an explanation/clarification about the technology needed for field audits and that it takes three hours and asked of Mr. Hammersburg, "Is that mainly what your request (to the legislature) is going to be?"

Mr. Hammersburg explained that they're actually taking a couple of people where pretty much their full-time job is trying to load up the thousands of audits every year. A bunch of time is spent working on things from a manual standpoint, getting everything together and getting it out to all the folks in the field. Then the people in the field will need some information from the Department of Revenue or Employment Security to check this or that, etc. Then they can go into those screens and can do printouts, and then into another screen to do another printout. What an advantage and time-saver it would be to have a data warehouse that can pull all this in/together, and then a field audit piece that actually loads it all up so to stop having people do all the manual work. Over the course of a given audit it might be as much as three or four hours of manual work altogether. If we could just get this data warehouse, then those couple of people that are doing that pretty much full-time can become auditors instead of being in the office.

Mr. Hammersburg went on further clarifying his request to the legislature, stating that there are two big pieces of the request. One was rewriting the field audit system to reduce a lot of that manual work, in conjunction with the piece of the data warehouse to say we need something that's very easy for us to be able to pull information out so we don't need a programmer every single time we want to do a cross-check or a data run. But the people can actually do that, and it can hold all of this in one place.

The bottom line, let's get all this information all together in one place where it can easily be looked at, allowing everyone to be more productive and faster.

It was asked by an audience member, "Is the goal that the reports will come out sooner? To which Mr. Hammersburg stated that really, the goal is to increase the detection abilities, and to really take a look at where people are getting sent.

Mr. Hammersburg provided an example: In re the audit program, when the data warehouse was originally set up was set up for claims. That's what it was set up to deal with. Since then every-thing else in the world has been thrown into it. And so it's not surprising when people try to go and find some good information for an audit, it's just not correlating with that.

Mr. Hammersburg provide yet another example: Today when an auditor goes out on a targeted audit, problems are found 50 percent of the time. The goal is 80 percent.

So how do we get to 80 percent? We get there through cross-checks and everything else. But the point is this data warehouse would be a big piece of that. If we went from being in the right place 50 percent of the time to 70 percent of the time, millions of dollars could be identified. Right now the right people aren't being targeted, and good people are being bothered that shouldn't be bothered. We don't want or need to be out there bothering people if there's not a problem. So the idea is to target the right people, the right places and not waste anyone's time.

Art Dalessandro shared with the group that they typically receive notices from revenue officers just after they've done distributions, and it appears that no one's on the same page, nor are they communicating with each other. Mr. Hammersburg assured everyone that they're trying to get that coordinated and they're working on it.

One suggestion was offered by Committee Member Hetrick, stating that maybe more time could be given in regards to the notices for them to research, etc. Mr. Hammersburg agreed and said that yes, if there's a deadline coming up, these notices would need to be gotten to the recipient(s) right away.

Frank Romero echoed those comments, but added that "You can help us also by telling us when you're going to make your distributions because you know in advance when you're going to be doing that, and we can then get that information to Carl. What we gave him was a time frame that shows when we make the distribution to you and what we understood the date that you made the distribution. But if we're wrong on the dates that we have, then that will change. So if you could give us more accurate information, that would be helpful."

*(Whereupon, a recess was taken. Committee Member Jim Gurnea no longer present after the recess.)*

## Actuaries' Corner

Bill Vasek introduced Nichole Runnels, one of the actuaries, who then gave a visual presentation and summary (with the use of charts) of the latest retro adjustments. She stated that the areas being looked at would be: The latest adjustment finishing in May, the first adjustment for July 2003, the second adjustment for July 2002, and a brief look at the history of refunds and some trends for the July groups.

Ms. Runnels shared with the group the percentage refunds going back to 1989, just for the July enrollment. The trend line was basically flat, staying at around 24 percent for that whole period. While 1995 showed the overall refund to be 34 percent (due to the rate decrease), in the later years the percentages hover between 25 and 25 percent.

In talking about and comparing dollar amounts instead of percentages, data showed that it was going steadily upward. But that's due to more hours worked in the state and also rate inflation due to benefits.

Next, a comparison was made/shown side by side comparing the first with the second adjustments. In the early years the second adjustment was generally more than the first adjustment as far as dollars; however, in the more recent years there's really no pattern, not really a big pattern like was seen in the early years of retro.

Then a comparison was made/shown showing a breakdown of enrollees by whether they've received a refund or an assessment. Looking at the associations, it can be seen that those with the refunds had a loss ratio of 93 percent, whereas those with assessments had a combined loss ratio of 124 percent. And that's the typical relationship; the people with the refunds or the groups with the refunds are going to have smaller loss ratios than those with the assessments. As for the individual employers, those numbers are smaller because they are smaller entities, and the same thing holds true as far as their loss ratios.

She then broke the data down by plan. It could be seen that plan A has the most enrollees and has a 38 percent refund for the first adjustment. And plan A1 and plan B are both very small. Regarding the assessments, the associations had an average loss ratio of 124 percent with six associations. Again, plan A had more enrollees.

Next, a comparison was made/shown showing by association what the approximate refund or assessment amount is and then the percentages of refund or assessment and also looking at the loss ratios. Again, it could be seen that most of the time a high loss ratio means an assessment.

### COHE Update

Diana Drylie gave an update (also via slide presentation) and shared with the group the findings from the Renton COHE (Centers for Occupational Health & Education). There is also a Spokane COHE. They're one year behind/delayed from the Renton COHE. It is hoped that next year the results from the Spokane COHE can be shared with the group.

There were pre and post evaluations as well as a control group for all of the things that the University of Washington research team looked at. The pre period, the before project, is the baseline year. That's July 2001 to June 2002. And in the implementation period, you're really giving Valley Medical Center time to get up and running, to train the doctors, to learn the process, and create the infrastructure. This "implementation" happened between July 2002 and June 2003. And then at that point they became part of the evaluation and all the claims that were treated by the attending physicians in the project became part of this outcome evaluation during the year of July 2003 to June 2004. So this really is a long-term evaluation looking at claims over a long period of time, allowing follow-ups to get some real numbers.

The design of the evaluation itself was based on a comparison group and an intervention group. In the intervention there were 130 doctors participating in the Renton area during the year of the

evaluation. The comparison group is located within the same area, the same zip code, but it's doctors who did not participate, a little over 1,000 doctors. And that's because a lot of the Renton doctors were high volume. So a lot more doctors were allotted in the control group to get the appropriate number of control claims.

The UW looked at all cases treated by the doctors in the community and they were looking at: occurrence of disability, duration of disability, patient satisfaction, the employment outcomes of those patients, and disability and medical costs. It was a very comprehensive evaluation of the COHE's and the experience of the doctors.

A chart with data was shared with everyone which showed the baseline cases the year before the evaluation, before the implementation happened. For the COHE doctors there were 9,498 cases; and for the comparison group there were approximately 10,000. A very comparable number of claims in both groups. In the outcome year, it was just about 11,000 for each of them. Again, very comparable.

The number of providers was 130 for COHE versus 1,065 for the comparison group. And the satisfaction survey was given to injured workers in the area asking them about their experience, their satisfaction, etc., and this showed a very comparable number again.

Next, some data (a new chart) was shared showing the incidence of disability during the outcome year. On this one, they were focusing on three clinical outcomes: back sprain, carpal tunnel syndrome (CTS), fractures of arms/legs. So for the injured workers treated by doctors participating in COHE for back strain, 18.2 percent of them were on time loss at some point within the life of their claim. In the comparison group, it was 34.1 percent. A very good reduction. The same held for carpal tunnel. It was 13.2 percent in the intervention group. 40.8 percent in the comparison group. Fractures, it was 17.2 percent versus 44 percent. Other sprains it was 17.9 percent versus 29.2. And for all injuries across the board which is over 22,000 injuries, it was 17.8 percent for the COHE versus 23.7 percent for the control group. So it can be seen across the board that there is a reduction in the number of injured workers who have to go on time loss if they're being treated by doctors participating in the pilot.

There was a new chart was shown that showed the percent of cases on disability at 180 days and 360 days among compensable cases. It is already known that there are fewer injured workers treated by the COHE who end up on time loss at all. But if they do end up on time loss, how long do they stay? There's a similar pattern here. The numbers shown for other sprains and all injuries are actually statistically significant. For other sprains, 15 percent of those injured workers who do end up on time loss in the COHE are on time loss still at 180 days compared to 18.9 percent in the comparison group. And then if you look at 360 days, that same group goes 6 percent for the COHE and 9.7 percent for the comparison group. And then all injuries, it's 15.1 percent compared to 18.9 percent for 180 days, and then 7.4 percent compared to 9.4 percent. So again, there's been a reduction.

A question was asked from the group, stating: "It seems to be an anomaly with fractures. For some reason with fractures, it seems to go against the grain or against the pattern there. Why?"

While Diana Drylie couldn't really give an answer, she did state that some of the outcomes may be related to the kinds of doctors who are participating. With the COHE doctors in the Renton COHE, there are a lot of emergency rooms, a lot of urgent care, so they may have gotten many more fractures.

A new chart was shown/shared which showed the disability days among compensable cases. It's a given that there are fewer injured workers going on time loss if they're in the COHE. And it's also known that those that go on time loss aren't on as long as the comparison group. So the question is: What are the days? What does this actually mean in real numbers?

So taking a look at the days, it's better to look at the median. It's a little bit better number. You can see that for back sprain COHE median days, it's 24 versus 22. But again, there were fewer people who go on. So that's a good thing. With CTS, in the COHE the injured worker is on disability for 22 days compared to 82 in the comparison. That was a huge finding. The expectation was not there to have CTS have such a big difference. Fractures, it goes from 29 days in the COHE up to 36 in the comparison group. For other sprains, it was 25 days to 33. And then for all injuries, it was 25 to 33 as well.

A new chart was shown detailing medical and disability costs per claim for all injuries. In the COHE, medical cost is $1,785. The comparison group, it was $2,167, with a difference of $382 for the COHE. So the COHE is costing in medical less than the comparison group.

And then with disability, $711 for COHE claims compared to $1,209 for comparison group for a savings of $498. So if you look at the total cost, you can see that the COHE claims cost $880 less per claim than the comparison group. And this includes the incentive(s) paid to the doctors.

Another chart was shown detailing the medical and disability costs per claim for compensable cases. And this chart was just for those who reach the compensable status, i.e., they have four or more days off work. There was a big difference here. For the COHE, the medical costs were $6,301. In the comparison group, $6,318. So not much difference. But when looking at the disability costs, in the COHE it's $3,999, and in the comparison group it's $5,111. So that is a huge savings for those claims that were actually treated by attending doctors participating in the pilot.

One of the things that was asked of the UW to do was to look beyond the statistics to answer how much was saved or how many fewer days were there, or what does this actually look like and why. And while in this report they couldn't get into any of the real details of exactly which part of the pilot worked and which parts worked less, it was asked of them to look more at is it the selection factor? Are there just good doctors that want to be part of this? Are there other issues that could be impacting these outcomes?

So what they looked at are the COHE activities: the training for the doctors, the health services coordination, the knowledge that they're part of this project, the differences in their practice patterns. Is it a high-volume doctor versus a low-volume doctor? Is it an occupational medicine doctor versus others? Could it also be the injury mix? Is it the type of provider? Or is it patient age and gender?

The UW actually tested these to determine COHE's effects. They were looking at disability measures, i.e., what's the likelihood of a case having to go on time loss and be away from work; and among those compensable cases, what are the likelihood of them being long-term disabled. And in the costs, how much of the costs are because there are really good providers in the COHE, and how much is directly attributed to the other COHE activities.

Here are some numbers/results: For the disability effects just listed or talked about, COHE cases are 17 percent less likely to become time loss cases. COHE compensable cases are 23 percent less likely to be on time loss at 360 days. And then the cost savings, provider recruitment effect is $125. So that's the portion of the savings that can be directly attributed to having good doctors who want to participate in a quality improvement project. However, that leaves $460 directly attributed to COHE activities. So the total COHE effect is a savings of $585. This $585 is savings per claim. And there were approximately 10,000 claims/cases within the one-year evaluation group. The gross savings were $5,850,000 in one year achieved by 130 doctors in the COHE. There was a contract with the COHE which actually was $192,500, but was rounded to $190-. So the aggregate savings were $5,660,000 of the COHE project in the Renton area.

There was also a survey of the injured workers. The results of that survey were: The COHE patients were as satisfied as the comparison group on the quality of care, coordination of care and overall treatment. In addition to being happy about the care they received, they also self-reported better employment outcomes. So 55 percent of the COHE patients were more likely to return to the same employer after their injury, and 65 percent were more likely to actually be working when they took the survey.

The UW team also asked the physicians what their experience was participating in this project. A physician survey was conducted. There was a 69 percent response rate from the participating physicians. 75 percent of those physicians indicated that their ability to treat injured workers had improved since participating in the pilot. 50 percent said they would be more willing to treat injured workers as a result of their experience. 74 percent of physicians responding indicated they were satisfied with their experience with COHE. And 70 percent said their ability to communicate with employers had improved.

Summary points: The Renton COHE had favorable outcomes. It had reduced disability incidence and duration, better disability outcomes for patients treated in hospital emergency department, better employment outcomes, no reduction in patient satisfaction, and lower medical and disability costs - especially for CTS cases.

At the end of the UW report, this was written as a conclusion: "It appears possible to substantially reduce disability among injured workers through COHE, and thereby save resources without sacrificing provider choice or diminishing patient satisfaction."

So overall, great results. Diana Drylie stated that they're looking forward to getting the Spokane results which will happen one year from now and hope they're just as good.

So where do we go from here? What is being done right now is they're trying to figure out how best to expand this, and going to be working with the workers' compensation advisory committee and health care subcommittee. They're working on putting together a supplemental budget package right now for the next session, and they're going to be sharing this with business and labor.

### Retro Symposium / Rulemaking

Frank Romero stated that the Retro symposium will be September 28th in the afternoon, and that they're planning on having a speaker talk about IME's, when it works, when it doesn't work; the benefits of light duty, kept on salary, return to work; then having a speaker talk about experience rating and talk about the difference between date of manifestation and date of injury -- two different issues. They're going to have a speaker come in and talk about pensions and second injury fund, and they're also going to have a person come in and talk about third party. It is going to be very informative, and Frank Romero urged and encouraged all to show up and participate. It will be in Tacoma this year, and it's free.

Frank Romero stated that in regards to rule making, he'd have Vickie Kennedy, the Deputy Assistant Director for Legislative Affairs for Insurance Services, come and talk about that one.

He reminded everyone that if everyone remembers the Department talked about some rules regarding Retro very late last fall, the middle of winter. There was an intent to look into the rules. A CR101 was filed in November. And then in January at the Retro Advisory Committee meeting there was discussion about that, and the decision was to not move on any rules pending the legislative session in case there were any bills adopted that might completely throw any process undertaken out the window. That didn't happen. So there have been some preliminary discussions with Gary Weeks, the new Director. Our Retro program is unique to the 50 states, so our new Director is reviewing, learning about it and digesting it.

Mr. Romero shared that one of the things being talked about is looking at rule development to at a minimum get greater transparency and clarity to the decision processes the agency goes through. For example, deciding whether an employer is substantially similar enough to participate in an individual association. So rules are getting looked at to get those processes and decision-making issues out on the table so that everybody, the stakeholders in our system, can understand that. He stated that beyond the existing decisions/processes, they'll be looking for input from the stakeholders on whether there's other items that should be included in that.

There was a question asked: "You said this program was unique to the 50 states. Is this the only one that has a retro program or is this just a different kind of retro?"

Ms. Kennedy responded that it's just a different kind of retro, that retro does exist in some of the other states but they all have their own unique twists on how their program is set up. Washington's retro program is unique also because it's an exclusive state fund along with self insurance.

### Good of the Order

Frank Romero requested for the good of the order if there were any updates anyone wanted to share about what's going on in the different organizations, or what should be presented at the next Retro Advisory Committee meeting.

Committee Member Shaffer stated that he was really impressed with what Carl Hammersburg had to say, and that he'd like to learn more about his department, and learn more in regards to his presentation given. Mr. Shaffer stated that Carl Hammersburg was doing more of a story about what was going on and some anecdotal stuff, and it would be nice to know some factual stuff. Some of Mr. Hammersburg's reports had data, and some of them were merely verbal reports, and while the verbal reports were good, he'd be interested to see if there was any data that could be shared or not.

Committee Member Hetrick requested that since there's a lot of claims management going on right now and new training procedures and implementing new processes, perhaps it would be good to have someone talk about all that. There's new audit tools they've been working on, so that might also be a good one to talk about.

Another suggestion came from Committee Member Sullivan where she suggested that since Director Weeks has now taken over and there's been a lot of changes that it would be nice to get an update on what kind of changes there've been in the Department, or will there be significant changes in claims management.

Someone else, a "Mitch," suggested perhaps having an update on the progress of the actuarial plan table that was going to be happening. At the last meeting they had introduced a few actuaries and they were going to be updating the plan. Frank Romero stated that he knew what they wanted to do was look at time-loss claims and medical claims by severity and weight them differently. Maybe there should be a different weight given to the more severe ones and less weight to the other ones.

### Early Return to Work (ERTW) Update

Donna Spencer spoke about ERTW's purpose, the assignment process, the team makeup and the role of the consultant, and shared some results and data that's been collected in the last year.

This program began in March of '04. It involves a team of regional staff who may directly contact workers, employers and physicians to promote medically appropriate return to work. The purpose of the program as to assist injured workers maintain a relationship with their employer, return to work safely and promptly after an industrial injury, and facilitate early communication with employers.

It is well known that the longer a worker remains off work, the harder it is to get them back to work at their original wage. Medical-only claims account for about 78 percent of the claims, but they are only 6 percent of claim costs.

When an injured worker has received time loss benefits for 14 days, the claim is automatically assigned to an early-return- to-work team in the region. This is done every day through a com-

puter-generated program. One of the edits in place is the COHE edit so that COHE claims are not part of this project.

The team is composed of customer service specialists. And they contact workers and employers within two business days. And they screen out the workers who do not need the team's assistance because the worker has already returned to work. If the CSS does not get a call back within 48 hours they're going to move the assignment to the regional supervisor. The regional supervisor then assigns the claim to one of the staff. If their case loads are full, the supervisor will refer the claim to the private sector. When the regional supervisor assigns the claim to one of their staff, it will go to one of the following: a field vocational services consultant, a therapist consultant, or an occupational nurse consultant.

The consultant then sets up an action plan, reviews to see if light duty or transitional return-to-work opportunities exist, considers if a job modification would work to get the worker back to work. They facilitate communication between the parties and obtain needed records. In the field, the team members also are able to call on a variety of resources that work in their office. And those would include safety and health consultation, risk management and investigations. The consultants are located throughout the state. And the Department has a total of approximately 25 to 30 regional consultants in the ERTW program. When ERTW case loads are full or when the worker needs additional assistance, the consultants also make early intervention or ability-to-work assessment referrals directly to the private sector. The ERTW team then is going to see if there could be shorter or adjusted hours to get the worker back to work, lighter or modified physical tasks to get the worker back to work, or possibly work out of their home.

With this program, the Department has wanted to move away from merely finding out from the doctor if the worker is medically stable or not and moving toward working with the employer and worker to develop a transitional job that could be used when the worker is released for work.

When looking at the data over the last year, what is found is that when the regional teams investigate, about 30 percent of these people are already working or fully released for work. Between 15 and 20 percent receive assistance to return to work from our regional consultants. When looking at return to work, about 55 percent of return to work is with the job at the time of injury. 36 percent are return to transitional or temporary jobs. 6 percent return to work with a new employer. And 3 percent go back to work using some kind of job modification. 15 percent of the total are closed medically unable to return to work. 14 percent are closed with other "admin" outcomes. And about a quarter are referred to private vocational services.

Ms. Spencer next shared with the group the difference between this program and early intervention because a lot of people get confused between the two. ERTW is under RCW 51.32.090. And this is the title on temporary total disability. It deals with time loss, when the employer and the worker are involved in a return to available work. It does not involve a vocational referral. That's different from 51.32.095 which is vocational rehabilitation and then lists the order of preference for returning a worker to work. Because early intervention (EI) and ability-to-work assessment (AWA) are vocational referrals, they are under WAC 296-19A. That WAC would apply to early intervention (EI) and AWA, but it does not apply to ERTW.

Ms. Spencer next shared with the group some results. Until a referral is made to private vocational services, the average time for referrals from the ERTW program is about 15 days. Prior to the ERTW program, injured workers were usually off work about four months on average before they got a referral.

Ms. Spencer stated that when they first started looking at return-to-work rates from the private sector, it was about 18 percent. And now, judging from the data (visual presentation), with the enhancements the Department's been trying to make emphasizing return to work, there's been a nice jump. So in regard to the referrals that ERTW and claim managers are making, they are seeing a big bang for the buck.

What's next for this program? They're going to continue collecting data. They're going to explore more of the best practices as they look around the state and compare. Each region works a little bit differently. And they're planning soon to brainstorm ways that they can increase that return-to work rate.

It was asked by an audience member: "Is there any chance that when this is referred out auto-matically that someone could please look at the claim to see if the guy has been disemboweled and is still in the hospital rather than to start calling his family and asking, 'Can he return to work?' I mean, the guy has still got his guts hanging out."

Ms. Spencer then indicated that the file review is part of the workup that's done. The nurses are saying they would actually like those in the regions rather than just getting a random sample of return to work; they would like those claims.

To which the audience member stated that it didn't appear that that was happening, though, and that they weren't reviewing the files before calling. She further stated, "More times than not they don't even know what the injury is. They don't know what the status of the worker is when they call."

Ms. Spencer then offered, "You do have the option of saying that you don't want any help at this time."

The audience member then replied, "But we often get them referred without having them call us." And then continued, "I also have one that's been referred for EI, early intervention, with a vocational counselor. He had surgery on his Achilles tendon. They're looking at AWA right now, and he hasn't even begun physical therapy yet because he's been in the cast."

Ms. Spencer stated that there were two things. One, is there is this real desire to try to get a job description in the file so that when a person is released for work the Department knows what to do. However, the field has also been told that there are certain instances where it's not appropriate to refer. Claims really isn't very comfortable if surgery is scheduled within 30 days, so they've been told not to send a referral in that instance.

The same audience member then asked, "So why are we sending them?"

Ms. Spencer couldn't give an answer, but indicated if there was a problem to get in touch with her, and she'd be glad to take a look at it.

## Adjournment

There being nothing else to come before the committee, the meeting was adjourned at 3:50 p.m. The next meeting of the committee will be on Tuesday, October 11, 2005.

*(Minutes taken/compiled by Milton Vance, Court Reporter)*